

UNITED STATES DISTRICT COURT CAMDEN NEW JERSEY

John McCann

Civil Case No. _____

Vs

Kennedy Health Systems
Kennedy Dialysis Center

Civil Action

Complaint

Jurisdiction

Suits arising under EMTALA regarding hospitals ,medical centers and the treatment offered, are under the jurisdiction of the District court. The complaint arises out of the mistreatment plaintiff received while at Kennedy Dialysis center. The plaintiff although having appointed power of attorney is filing this complaint Pro Se, for defendants gross violation of federal policy.

Short & Plain Statement

Plaintiff who suffers from diabetes and kidney failure, was transported to the Kennedy Dialysis center, in Voorhees on 3 / 5/2013, owned by Kennedy Health Systems, for dialysis removal of urine, from his body. Plaintiff, twice a week is required to have the dialysis treatment After the treatment plaintiff was awaiting transport back to his residence (Innova Rehabilitation. Hammonton NJ) and while in the care of the defendants, suffered cardiac arrest, as a result of being left with the one nurse having to monitor, numerous patients, who had received the dialysis treatment. Plaintiff was not monitored specifically for more than 30 minutes. The nurse noticed after 30 minutes that plaintiff was motionless and unresponsive. Plaintiff was eventually transported to the hospital and his family notified that he was in near death condition, and that there was little hope for his survival.

Monica Aviles, Plaintiffs niece and power of Attorney, objected and wanted immediate treatment performed on plaintiff to try and save his life, who because of the cardiac arrest, was left in a non-responsive comatose state, as a result of the defendants negligence,for approx 3 days.

Plaintiff after the defendant attempted to offer him treatment, at the vociferous request of plaintiff's family, froze plaintiffs brain, and during the thawing process, plaintiff recovered The defendant because of their negligent actions of not closely monitoring the plaintiff, in his severe condition during dialysis, and did not offer prompt medical attention as proscribed by law or offer plaintiff life saving procedures, until after the family objected, caused severe emotional, mental and physical damages to plaintiff. Plaintiff has a private right to sue under EMTALA, for non monitoring of his condition and not reiving prompt medical attention for the defendants as proscribed federal law

The defendant did not perform and/or offer the family any neurological studies, to determine if any brain damage or neurological damage had occurred, due to plaintiffs cardiac arrest or preform any test to ascertain, whether the plaintiff had lost any physical body functions or brain function, due his condition.

Monica Aviles noticed afterwards, that plaintiff suffers from depression over the incident and loses some minimal bodily functions at times, i.e hand and finger functions, memory loss, emotional instability, anger and sadness.

Claims in which relief can be granted

Right to Treatment

In an emergency situation, a patient has a right to treatment, regardless of ability to pay. **If a situation is likely to cause death, serious injury, or disability if not attended to promptly, it is an emergency.** Cardiac arrest, heavy bleeding, profound shock, severe head injuries, and acute psychotic states are some examples of emergencies. Less obvious situations can also be emergencies: broken bones, fever, and cuts requiring stitches may also require immediate treatment.

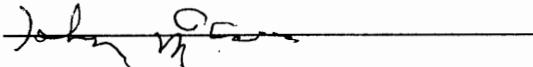
Emergency Medical Treatment and Active Labor Act (EMTALA) (42 U.S.C.A. § 1395dd), which established criteria for emergency services and criteria for safe transfer of patients between hospitals. This statute was designed to prevent "patient dumping," that is, transferring undesirable patients to another facility. The law applies to all hospitals receiving federal funds, such as Medicare (almost all do). The law requires hospitals to provide a screening exam to determine if an emergency condition exists, provide stabilizing treatment to any emergency patient or to any woman in active labor before transfer, and continue treatment until a patient can be discharged or transferred without harm. It also delineates strict guidelines for the transfer of a patient who cannot be stabilized. A hospital that negligently or knowingly and willfully violates any of these provisions can be terminated or suspended from Medicare. The physician, the hospital, or both can also be penalized up to \$50,000 for each knowing violation of the law.

Demand.

1. An immediate evaluational of plaintiffs possible loss of brain and/or bodily functions due to the cardiac arrest, to be performed by an independent laboratory and specialist, paid for by the defendants.
2. \$100'000 for two different violations ETMALA and 5 million dollars in physical damages and emotional and mental stress. **Total \$5'000'050.**
3. A jury trial.

(defendants were sent a Notice of Intent and request to initiate a ligation hold, on all relevant material)

A proposed order is attached, and certification, in addition to a IFP application, due to plaintiffs financial status, which renders him unable to pay the filing fees.

John McCann (Pro Se) 

Date 01/15/15

Certification

I certify that the statement made are true to the best of my knowledge and ability and I know that if any statements are willfully false that I maybe subject to fines.

John McCain

6/15/15

John McCann

Innova Care

43 N. White Horse Pike
Hammonw. NJ 08035

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FRI 16 JAN 2015 PM



AT 8:30
WILLIAM TWA

RECEIVED

JAN 20

U.S. District Court
3rd Market St
Camden N.J.

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